

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

**Jack's Oil Distributing Incorporated  
420 Logeais Street  
P.O. Box 309  
Eden Valley, Minnesota 55329**

**ATTENTION:**

**Thomas Fickett  
Fleet Manager  
[info@jacksoil.com](mailto:info@jacksoil.com)**

**Request to Provide Information Pursuant to the Clean Air Act**

The U.S. Environmental Protection Agency is requiring Jack's Oil Distributing Incorporated (Jack's Oil or you) to submit certain information. Appendix A provides the instructions needed to answer this information request, including instructions for electronic submissions. Appendix B specifies the information that you must submit. You must send this information to us within **30 calendar days** after you receive this request.

We are issuing this information request under Section 208(a) of the Clean Air Act (the CAA), 42 U.S.C. § 7542(a). Section 208(a) authorizes the Administrator of EPA to require the submission of information. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 5.

You own and operate a fuel delivery business in Eden Valley, Minnesota, which utilizes heavy-duty diesel vehicles. We are requesting this information to determine whether you are complying with Section 203 of the CAA and the regulations promulgated under Subchapter II of the CAA at 40 C.F.R. Part 86.

At this time, EPA Region 5 is not accepting any hard-copy document deliveries. If possible, we ask you to upload all required information to the secured web-link shared with you at the time you received this request. If you did not receive a web-link, or if you are having technical difficulties, you must contact [chatfield.ethan@epa.gov](mailto:chatfield.ethan@epa.gov) or (312) 886-5112 to make arrangements to submit your response.

You must submit all required information under an authorized signature with the following certification:

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to 18 U.S.C. §§ 1001 and 1341.

As explained more fully in Appendix C, you may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B for any part of the information you submit to us. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth at 40 C.F.R. Part 2, Subpart B. If you do not assert a business confidentiality claim when you submit the information, EPA may make this information available to the public without further notice. You should be aware, moreover, that pursuant to Section 208(c) of the CAA and 40 C.F.R. § 2.301(a) and (f), emissions data, standards and limitations are not entitled to confidential treatment. Appendix C provides additional information regarding the meaning and scope of the term “emissions data.”

This information request is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information from specific individuals or entities as part of an administrative action or investigation.

We may use any information submitted in response to this request in an administrative, civil or criminal action.

Failure to comply fully with this information request may subject you to an enforcement action under Section 205 of the CAA, 42 U.S.C. § 7524.

You should direct any questions about this information request to Ethan Chatfield at (312) 886-5112.

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Date

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Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance Division

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## **Appendix A**

When providing the information requested in Appendix B, use the following instructions and definitions.

### **Instructions**

1. Provide a separate narrative response to each question and subpart of a question set forth in Appendix B.
2. Precede each answer with the number of the question to which it corresponds and, at the end of each answer, identify the person(s) who provided information used or considered in responding to that question, as well as each person consulted in the preparation of that response.
3. Indicate on each document produced, or in some other reasonable manner, the number of the question to which it corresponds.
4. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner.
5. Where information or documents necessary for a response are neither in your possession nor available to you, indicate in your response why the information or documents are not available or in your possession, and identify any source that either possesses or is likely to possess the documents or information.
6. If information not known or not available to you as of the date of submission later becomes known or available to you, you must supplement your response. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or incorrect, you must notify EPA as soon as possible.

### **Electronic Submissions**

To aid in our electronic recordkeeping efforts, we request that you provide all documents responsive to this information request in an electronic format according to paragraphs 1 through 6, below. These submissions are in lieu of hard copy.

1. Provide all responsive documents in Portable Document Format (PDF) or similar format, unless otherwise requested in specific questions. If the PDFs are scanned images, perform at least Optical Character Recognition (OCR) for “image over text” to allow the document to be searchable. Submitters providing secured PDFs should also provide unsecured versions for EPA use in repurposing text.
2. When specific questions request data in electronic spreadsheet form, provide the data and corresponding information in editable Excel or Lotus format, and not in image format. If Excel or Lotus formats are not available, then the format should allow for data to be used in calculations by a standard spreadsheet program such as Excel or Lotus.

3. Provide submission to the secure web-link provided by EPA.
4. Provide a table of contents of all electronic documents submitted in response to our request so that each document can be accurately identified in relation to your response to a specific question. We recommend the use of electronic file folders organized by question number.
5. Documents claimed as confidential business information (CBI) must be submitted in separate file folders apart from the non-confidential information. This will facilitate appropriate records management and appropriate handling and protection of the CBI. Please follow the instructions in Appendix C for designating information as CBI.
6. Certify that the attached files have been scanned for viruses and indicate what program was used.

### **Definitions**

All terms used in this information request have their ordinary meaning unless such terms are defined in the CAA, 42 U.S.C. §§ 7401 *et seq.*, or the applicable mobile source regulations, including those found at 40 C.F.R. Parts 85, 86, 1039, and 1068.

1. The terms “document” and “documents” means any object that records, stores, or presents information, and includes: email; writings; memoranda; contracts; agreements; records; or information of any kind, formal or informal, whether handwritten or typed, whether in computer format, memory, or storage device, or in hardcopy. All documents in hard copy shall also include attachments to or enclosures with any document.
2. The terms “Jack’s Oil” or “you” or “your” includes, but is not limited to: any assumed business names, agents, representatives, employees, contractors, parent organizations, affiliates, and assignee organizations or entities that performed work or acted in any way on behalf of, are related to, or acted at the direction of Jack’s Oil Distributing Incorporated.
3. The term “catalyst” refers to a system, such as a catalytic converter or diesel oxidation catalyst (DOC), that contains parts or chemical elements which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, are not consumed or altered in the reaction. Catalysts consist of a flow-through structure that is coated with an active metal catalyst and surrounded by a stainless steel housing.
4. The term “diesel particulate filter” or “DPF,” also known as a “periodic trap oxidizer” or “PTOX,” refers to an exhaust after-treatment emission control component that physically traps particulate matter (PM) and removes it from the exhaust stream, typically using a porous ceramic or cordierite substrate or metallic filter.
5. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. ECM programming relies on calculations and tables of information to provide

appropriate outputs. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. ECMs may be incorporated separately with multiple units or may be combined into a single unit.

6. The term “element of design” means any control system (*e.g.*, computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle, motor vehicle engine, nonroad equipment, or nonroad engine.
7. The term “emission control component” means any part or component and its associated fluids, sensors, signals, components, and control systems that function primarily for emission control and whose deviation from original manufacturer specifications and/or failure may significantly increase emissions.
8. The terms “derate” or “limp-home mode” mean an ECM mode that reduces the engine power after the On-Board Diagnostics system identifies a problem with an emission control component.
9. The terms “exhaust gas recirculation” or “EGR” and “clean gas induction” or “CGI” refer to emission control components that directs a portion of engine exhaust back into the engine’s combustion chamber to control combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (NO<sub>x</sub>). The EGR system may include a cooler, which cools the recirculated exhaust.
10. The term “On-Board Diagnostics” or “OBD” refers to an ECM that monitors emission control and emission-related components and systems along with certain engine components, such as the fuel delivery system and the engine control module. When the OBD detects a malfunction or deterioration that could affect emissions, it illuminates a malfunction indicator light (MIL) and produces diagnostic trouble codes (DTC) to aid in repair.
11. The term “part or component” includes any part or component intended for use with, or as part of, a motor vehicle, motor vehicle engine, nonroad equipment, or nonroad engine (*e.g.*, ECM, element of design, calibration map, tune, tuner, or software that is installed on or designed for use in such vehicles or engines).
12. The term “product” or “products” shall mean any service, part or component, or other item(s), including, but not limited to, engine parts, manifolds, turbos, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, or devices, that are manufactured (*i.e.*, created, written, programmed, fabricated, produced, assembled or modified), purchased, imported, distributed, downloaded, offered for sale, sold, provided, performed, and/or installed by your company that are intended for use with, or as part of, a motor vehicle, motor vehicle engine, nonroad equipment, or nonroad engine.
13. The term “selective catalytic reduction” or “SCR” refers to an emission control

component that includes systems, such as the diesel exhaust fluid (DEF) tank, urea quality sensor, DEF injection system, SCR catalyst(s), and other associated sensors, which inject a reductant, such as DEF, into the exhaust stream where it reacts with catalysts to convert NO<sub>x</sub> emissions to nitrogen gas (N<sub>2</sub>) and water (H<sub>2</sub>O).

14. The term “tune” means any combination of software programming, calculations, computer logic, tables of information (*e.g.*, fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
15. The term “tuner” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (*e.g.*, fuel timing maps), code, or other content stored within or used by an ECM.



## Appendix B

### Information You Are Required to Submit to EPA

Pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, you must submit the following information for all locations where you conduct business:

1. Provide an **unlocked, electronic Excel-compatible spreadsheet** that lists each heavy-duty diesel vehicle (*i.e.*, those vehicles with a gross vehicle weight rating greater than 8,500 pounds) owned, operated, and/or leased by Jack's Oil (at all locations) between January 1, 2018 and the date of receipt of this request. For each vehicle, provide the following:
  - (a) any vehicle identification number used by you;
  - (b) the vehicle identification number (VIN);
  - (c) engine make, model, year, size, and horsepower;
  - (d) chassis make, model, and year;
  - (e) the emission controls (e.g. DPF, EGR, CGI, SCR, catalyst, including urea injection system) installed on the vehicle when manufactured; and
  - (f) the owner and operator of each vehicle.
2. Answer the following questions with a "yes" or a "no" followed by a brief explanation:
  - (a) Do you offer maintenance services to vehicles and/or engines outside of your fleet?
  - (b) Are your fleet vehicles ever serviced outside of your facilities? If yes, where are they serviced outside of your facilities?
3. For each vehicle listed in response to Request 1, identify, within the same spreadsheet provided in response to Request 1, those vehicles operating (either currently or previously) with one or more modified emission control components and/or with one or more tunes and/or tuners used or installed. Modifications include, but are not limited to, the alteration of the performance or operation of, blocking, bypassing, defeating, disconnecting, deleting, deactivating, removal (in part or in whole), or rendering inoperative in any way of any emission control component, element of design, and/or emission related part of the vehicle, including, but not limited to the following systems: the DPF; EGR; CGI; SCR; catalyst (including urea injection system); OBD; and/or any fluid, sensor, signal, component, and/or control system related to these systems.
4. In the same spreadsheet provided in response to Request 1, provide the following information for each vehicle identified in response to Request 3:
  - (a) List of any and all modifications to the vehicle or engine's emissions control components, elements of design, and/or emissions related part, including the following information for each modification:
    - i. The date the modification was completed;

- ii. Each part or component used to complete the modification, including the part or component's manufacturer, make, and model;
  - iii. The emissions control components that are affected (e.g. DPF, SCR, EGR, CGI, etc); and,
  - iv. All parties involved in providing or completing the modification(s).
- (b) List of any and all tunes and/or tuners used or installed on the vehicle or engine, including the following information for each tune and/or tuner:
  - i. The date of each tune/tuner installation;
  - ii. The tune and/or tuner manufacturer, make, and model;
  - iii. The emissions control components that are affected (e.g. DPF, SCR, EGR, CGI, etc);
  - iv. All parties involved in providing, selling or installing the tune/tuner;
  - v. If the tune and/or tuner allows for any of the modifications described in Request 3, by, for example, enabling a modified vehicle or engine to operate without displaying a MIL, prompting a DTC, and/or causing engine derating, identify each emission control system affected by the tune and/or tuner, and specify how the tune and/or tuner affects vehicle or engine operation; and
  - vi. If the tune and/or tuner alters engine operating parameters, such as fuel timing, fuel pressure, injection timing, fuel quantity, and/or injection pulse widths, specify which parameters the tune and/or tuner affects, or if not known, describe the anticipated gains from the tuner, such as increased horsepower, fuel economy, or torque.
- 5. Provide all documents, including invoices, purchase orders, receipts, and maintenance records related in any way to the following:
  - (a) Any modification to any emission control component, element of design, or emission related part identified in response to Request 4(a), above; and
  - (b) Purchase, installation, and/or update of any and all tunes and/or tuners identified in response to Request 4(b) above.
- 6. Provide a copy of all documents (including but not limited to emails) that discusses or describes the alteration, blocking, bypassing, defeating, disconnecting, deleting, deactivating, removal (in part or in whole), or rendering inoperative in any way of any emission control component, element of design, and/or emission related part of any vehicle owned, operated or leased by Jack's Oil.
- 7. Identify all persons consulted in preparing the answers to this Request for Information, including his/her title(s) and relationship to Jack's Oil (e.g., employee, contractor, etc.), the request(s) to which each individual responded, and the period of time for which each individual is providing a response.

## **Appendix C**

### **Confidential Business and Personal Privacy Information**

#### **Assertion Requirements**

You may assert a business confidentiality claim covering any parts of the information requested in the attached Appendix B, as provided in 40 C.F.R. § 2.203(b).

Emission data provided under Section 208 of the CAA, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2.

“Emission data” means, with reference to any source of emissions of any substance into the air:

Information necessary to determine the identity, amount, frequency, concentration or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing;

Information necessary to determine the identity, amount, frequency, concentration or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and

A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. § 2.301(a)(2)(i)(A), (B) and (C).

To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any document for which you make a claim of confidentiality should be marked by attaching a cover sheet stamped or typed with a caption or other suitable form of notice to indicate the intent to claim confidentiality. The stamped or typed caption or other suitable form of notice should employ language such as “trade secret” or “proprietary” or “company confidential” and indicate a date, if any, when the information should no longer be treated as confidential. Information covered by such a claim will be disclosed by EPA only to the extent permitted and by means of the procedures set forth at Section 208(c) of the CAA and 40 C.F.R. Part 2. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. EPA will construe the failure to furnish a confidentiality claim with your response to the information request as a waiver of that claim, and the information may be made available to the public without further notice to you.

## **Determining Whether the Information Is Entitled to Confidential Treatment**

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. § 2.208, which provides in part that you must satisfactorily show: that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, that the information is not and has not been reasonably obtainable by legitimate means without your consent and that disclosure of the information is likely to cause substantial harm to your business's competitive position.

Pursuant to 40 C.F.R. Part 2, Subpart B, EPA may at any time send you a letter asking that you support your confidential business information (CBI) claim. If you receive such a letter, you must respond within the number of days specified by EPA. Failure to submit your comments within that time would be regarded as a waiver of your confidentiality claim or claims, and EPA may release the information. If you receive such a letter, EPA will ask you to specify which portions of the information you consider confidential by page, paragraph and sentence. Any information not specifically identified as subject to a confidentiality claim may be disclosed to the requestor without further notice to you. For each item or class of information that you identify as being CBI, EPA will ask that you answer the following questions, giving as much detail as possible:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a special event or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question number 1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available databases, promotional publications, annual reports or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as

substantial and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?

7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.
8. Is there any other information you deem relevant to EPA's determination regarding your claim of business confidentiality?

If you receive a request for a substantiation letter from the EPA, you bear the burden of substantiating your confidentiality claim. Conclusory allegations will be given little or no weight in the determination. In substantiating your CBI claim(s), you must bracket all text so claimed and mark it "CBI." Information so designated will be disclosed by EPA only to the extent allowed by and by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

### **Personal Privacy Information**

Please segregate any personnel, medical and similar files from your responses and include that information on a separate sheet(s) marked as "Personal Privacy Information." Disclosure of such information to the general public may constitute an invasion of privacy.



## **CERTIFICATE OF MAILING**

I certify that I sent a Request to Provide Information Pursuant to the Clean Air Act by Electronic Mail, Delivery Receipt Requested, to:

**Thomas Fickett**  
**Fleet Manager**  
[info@jacksoil.com](mailto:info@jacksoil.com)

I also certify that I sent a copy of the Request to Provide Information Pursuant to the Clean Air Act by E-mail to:

**Sarah Kilgriff, Manager**  
**Minnesota Pollution Control Agency**  
[Sarah.Kilgriff@state.mn.us](mailto:Sarah.Kilgriff@state.mn.us)

On \_\_\_\_\_.

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Ethan Chatfield, Environmental Engineer  
AECAB, IL/IN Section